

No. 12-2050 PO

The Director filed a motion for summary decision on April 9, 2013. We notified Mr. Adams that he should file any response by April 26, 2013, but he filed nothing.

By failing to answer or otherwise respond to the complaint, Mr. Adams has admitted the allegations contained therein. 1 CSR 15-3.380(7)(C)1.<sup>1</sup>

By failing to respond to the motion for summary decision, he has also failed to raise a genuine issue as to the facts the Director established in his motion. 1 CSR 15-3.446(6)(B).

Accordingly, the findings of fact are based on the allegations contained in the complaint, and documents submitted in connection with the Director's motion for summary decision: a custodian of records affidavit, and authenticated records from a criminal case against Mr. Adams, including an indictment and judgment.

### **Findings of Fact**

1. Tommy L. Adams' Missouri peace officer license is active and has been at all relevant times.

2. An indictment was filed against Mr. Adams on August 18, 2011 in the United States District Court, Eastern District of Missouri. He was charged with engaging in certain criminal activities between December 2009 and April 2011, specifically: possession of stolen firearms, in violation of 18 U.S.C. §§ 2 and 922(j); sale of stolen firearms, in violation of 18 U.S.C. § 922(j); and unlawful use of a controlled substance while in possession of firearms, in violation of 18 U.S.C. § 922(g)(3).

3. Mr. Adams committed these crimes. He pled guilty on April 3, 2012, judgment was entered, and he was sentenced.

### **Conclusions of Law**

We have jurisdiction of this matter. § 590.080.2, RSMo.<sup>2</sup>

---

<sup>1</sup> All references to "CSR" are to the Missouri Code of State Regulations, as current with amendments included in the Missouri Register through the most recent update.

<sup>2</sup> All references to "RSMo" are to the Revised Statutes of Missouri, 2012 Supplement.

The Director is responsible for issuing and disciplining the licenses of Missouri peace officers. §§ 590.020, .030, and .080, RSMo. When the Director files a complaint with this Commission asking us to determine there is cause for discipline, § 590.080.2, the Director bears the burden of proving so by a preponderance of the evidence. *See Kerwin v. Mo. Dental Bd.*, 375 S.W.3d 219, 229-230 (Mo. App. W.D. 2012)(dental licensing board demonstrates “cause” to discipline by showing preponderance of evidence). A preponderance of the evidence is evidence showing, as a whole, that “the fact to be proved [is] more probable than not.” *Id.* at 230 (quoting *State Bd. of Nursing v. Berry*, 32 S.W.3d 638, 642 (Mo. App. W.D. 2000)).

Section 590.080.1(2) provides that the Director has cause to discipline a licensee who “[h]as committed any criminal offense, whether or not a criminal charge has been filed[.]”

Here, the undisputed facts show Mr. Adams was charged with and pled guilty to the federal crimes of possession of stolen firearms, sale of stolen firearms, and unlawful use of a controlled substance while in possession of firearms. He committed criminal offenses. His conduct falls squarely under § 590.080.1(2).

Therefore, the Director has authority to discipline his license.

### **Summary**

The Director’s motion for summary decision is granted.

The hearing presently scheduled for May 28, 2013 is canceled.

SO ORDERED on May 2, 2013.

\s\Alana M. Barragán-Scott  
ALANA M. BARRAGÁN-SCOTT  
Commissioner